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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/224,637	12/31/1998	YUVAL OFEK	E0295/7080	3449

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EXAMINER

VITAL, PIERRE M

ART UNIT	PAPER NUMBER
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2188

DATE MAILED: 01/15/2004

34

Please find below and/or attached an Office communication concerning this application or proceeding.

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Advisory Action

Application No.

09/224,637

Applicant(s)

OFEK ET AL.

Examiner

Pierre M. Vital

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 December 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: none.Claim(s) objected to: none.Claim(s) rejected: 1-28.Claim(s) withdrawn from consideration: none.

8. ☒ The drawing correction filed on 22 April 2003 is a) ☒ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☒ Other: see attached.

Continuation of 5. does NOT place the application in condition for allowance because: The claims are not defined over the prior art of record and the applicant's arguments are not persuasive to put the application in condition for allowance .

Response to Arguments

Applicant's arguments filed December 29, 2003 have been fully considered but they are not persuasive. As to the remarks, applicant asserted that:

(a) Tamer does not teach or suggest one or more communication links that couple a storage domain to a host domain.

Examiner respectfully traverses applicant's arguments for the following reasons. Examiner would like to point out that the fact that communication link 6 couples one storage domain to another does not preclude connectivity of the storage domain to the host domain through the communication link.

It should be borne in mind that, in discussions of electrical components, the terms "connected", "operatively connected", "electrically connected", and like terms denote an electrical path between two components. It is understood, however, that such terms do not preclude the existence of additional components interposed between the two original components, even if an additional such component has the capability of interrupting or affecting signal or data transmission between the two original components. Only through the use of the term "directly connected", or like terms, is it intended to denote an electrical connection between two components that precludes any additional components, other than an electrical conductor, interposed between the two original components.

As such, it can be clearly seen that communication link 6 provides connection from storage system 2 to server or host 10, and also provides connection from storage

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system 4 to server or host 8 as shown in Fig. 1. Applicant's invention as broadly claimed provides for a storage domain coupled to a host domain through one or more communication links and does not define a patentably distinct invention over that of Tamer. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Examiner would suggest amending the claims to more clearly convey the subject matter which applicant sees as his invention.

(b) Tamer does not teach or suggest a network that coupled a plurality of primary storage devices to a secondary storage device to permit one of the primary storage devices to access the secondary storage device through the network.

Examiner respectfully traverses applicant's arguments for the following reasons. Examiner would like to point out that when the communication link 6 is terminated as detailed in column 5, lines 20-28, it can be clearly seen that communication between master slave unit 2 and slave unit 4 can only occur through the network 14 as shown in Fig. 1. Thus, Tamer clearly teaches a network that coupled a plurality of primary storage devices to a secondary storage device to permit one of the primary storage devices to access the secondary storage device through the network.

- (c) Tamer does not teach or suggest a step of automatically establishing a first connection.

Examiner respectfully traverses applicant's arguments for the following reasons. Examiner would like to point out that when the communication link 6 is terminated, Tamer discloses write enabling the mirror volumes in the slave unit as detailed in column 5, lines 20-28; and enabling an automatic write of data from the first set of devices to the second set of devices as detailed in column 5, lines 39-40. Thus, it can be clearly seen that Tamer establishes a first connection by write enabling a set of devices when the communication link is terminated.

- (d) The Official Notice presented in the last Office action, paper number 34, concerning heterogeneous host computers is maintained. The Bergsten reference of record is cited as evidence to support examiner's taking of Official Notice; Fig. 1 and col. 4, lines 41-59 sets forth the motivation to use heterogeneous host computers in a computer system.

- (e) The prior art of record does not teach or suggest a single backup controller capable of backing up data stored from heterogeneous host computers.

Examiner respectfully traverses applicant's arguments for the following reasons. Examiner would like to point out that Tamer discloses backup console 16, which controls and coordinates backup in the system, is capable of backing up data stored in heterogeneous host computers (i.e., servers 8 and 10) to backup device 12 as shown in

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fig. 1B. Thus, it can be clearly seen that Tamer discloses a single backup controller capable of backing up data stored from heterogeneous host computers.

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1/14/04

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